

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )  
Michael J. Delwiche et al. ) Group Art Unit: 2877  
Serial No.: 09/349,814 )  
Filed: July 9, 1999 )  
For: SENSOR FOR ANALYZING )  
COMPONENTS OF FLUIDS )  
\_\_\_\_\_ ) San Francisco, California

Assistant Commissioner for Patents  
Washington, D.C. 20231

POWER OF ATTORNEY BY ASSIGNEE AND

EXCLUSION OF INVENTORS UNDER 37 C.F.R. 3.71

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby appoints the practitioners of Majestic, Parsons, Siebert & Hsue P.C. who are associated with the Customer Number provided below to prosecute this patent application, to transact all business in the U.S. Patent and Trademark Office connected therewith, and to receive the original Letters Patent, said appointment to be to the exclusion of the inventors and their attorney(s) in

accordance with the provisions of 37 C.F.R. 3.71. I further direct that all telephone calls and all correspondence relative to this patent application be addressed to that Customer Number.

Customer No:



**020227**

PATENT TRADEMARK OFFICE

An assignment of the entire interest in the above-identified subject application is submitted herewith for recording.

ASSIGNEE:

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

Dated: September 15, 1999

By: \_\_\_\_\_

*Linda S. Stevenson*

Linda S. Stevenson

Office of Technology Transfer

1111 Franklin Street, Twelfth Floor

Oakland, California 94607-5200

Title: Principal Prosecution Analyst

(Atty. Docket: 2500.138US0)  
(UC Case No.: 99-004-1)

PATENT APPLICATION DECLARATION

(Attorney's Docket No.: 2500.138US0)

Each of the Applicants named below hereby declares as follows:

1. My residence, post office address and country of citizenship given below are true and correct.

2. I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought in the patent application entitled "SENSOR FOR ANALYZING COMPONENTS OF FLUIDS," Serial No. 09/349,814, filed July 9, 1999, and I have reviewed and understand the contents of the specification, including its claims.

3. I acknowledge my duty to disclose to the Office all information known to me to be material to patentability of this application, in accordance with 37 C.F.R. Section 1.56, which is defined on the attached page.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: Sept 2, 1999



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(Citizenship: U.S.A.)

Date: SEPT. 02, 1999

Daniel M. Jenkins

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Date: Sept 14, 1999

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Date: 3 Sept 1999

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### Section 1.56 Duty to Disclose Information Material to Patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

## ASSIGNMENT

U.C. Case No. 99-004-1

For good and valuable consideration, the receipt of which is hereby acknowledge, ASSIGNORS,

1. Michael J. Delwiche
2. Daniel M. Jenkins
3. Edward J. Depeters
4. Robert H. Bondurant

hereby sell, assign and transfer to ASSIGNEE, The Regents of the University of California, a California Corporation, having its statewide administrative offices located 1111 Franklin Street, Twelfth Floor, Oakland, California 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its/their rights, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled:

### SENSOR FOR ANALYZING COMPONENTS OF FLUIDS

and which is found in

- (a)      U.S. provisional application filed herewith and listing the above named person as inventor
- (b)      U.S. patent application filed herewith and listing the above named person as inventor
- (c) XX U.S. application serial no. 09/349,814, filed on July 9, 1999
- (d)      U.S. Patent No.                     , issued

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

ASSIGNORS hereby covenant that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

ASSIGNORS further covenant that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

AND the ASSIGNORS request the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

2 day of September, 1999

Signature of Inventors

Michael J. Delwiche  
Michael J. Delwiche

2 day of September, 1999

Daniel M. Jenkins  
Daniel M. Jenkins

3 day of September, 1999

Edward J. Depeters  
Edward J. Depeters

3 day of September, 1999

Robert H. Bondurant  
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